

Office of the Attorney General
Maryland State Retirement and Pension System
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September 3, 2019

**Request for Proposals for Assistant Tax and Benefits Counsel for the
Maryland State Retirement and Pension System and the
Several Retirement and Benefit Plans Administered by the State of Maryland**

Written proposals are due on October 11, 2019

Dear Interested Party:

In this Request for Proposals (“RFP”), the Maryland Attorney General is seeking Assistant Tax and Benefits Counsel (“Contractor”) to assist the Office of the Attorney General (“OAG”) in its representation of the Maryland State Retirement and Pension System, its Board of Trustees, and the Maryland State Retirement Agency (collectively referred to herein as the “System”), as well as the OAG’s representation in connection with several other governmental retirement, pension and health and welfare benefits plans in Maryland on an as-needed basis.

Specifically, the Contractor will serve as assistant tax and benefits counsel to the OAG on an as-needed basis in connection with the following:

- (a) the System;
- (b) the Optional Retirement Program (“ORP”), a State-funded defined contribution plan established for eligible higher education employees who elect not to participate in the System;
- (c) the supplemental defined contribution retirement plans established by the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, Baltimore City Community College, Maryland Higher Education Commission and certain community colleges (collectively referred to herein as the “Employing Institutions”) for eligible higher education employees, as well as tax and benefits issues that may arise generally with the Employing Institutions;
- (d) the State Employee and Retiree Health and Welfare Benefits Program administered by the Maryland Department of Budget and Management (the “DBM”) that provides health and welfare benefits to State employees and retirees;
- (e) the defined benefit retirement plans administered by the Maryland Transit Administration (the “MTA”);
- (f) the Maryland Teachers & State Employees Supplemental Retirement Plans and its Board of Trustees, which administer the State of Maryland’s supplemental defined contribution plans (collectively referred to herein as the “MSRP”); and
- (g) such other tax and benefits issues that may arise with respect to retirement and benefit plans administered by the State of Maryland or the Employing Institutions.

1. Scope of Services.

A. Background:

The System was established in accordance with Division II of the State Personnel and Pensions Article (“SPP”) of the Annotated Code of Maryland to provide monthly allowances and other benefits to

its participants, including state government employees, teachers, law enforcement personnel, legislators, judges, and local government employees whose employers have elected to participate in the System. Each of the retirement and pension systems that comprise the System, including the Employees' and Teachers' Retirement and Pension Systems, Judges' Retirement System, Law Enforcement Officers' Pension System, and State Police Retirement System, is established as a qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code ("IRC"). The System is administered by a 15-member Board of Trustees that is obligated to hold the assets of the System for the exclusive purposes of providing benefits to participants and for the reasonable expenses of administration. As of June 30, 2018, the System included more than 405,000 members, vested former members, retirees and beneficiaries. **Prospective Offerors are strongly encouraged to review the Comprehensive Annual Financial Report for the System for the year ended June 30, 2018**, a copy of which is available on the System's website: www.sra.maryland.gov.

The Board of Trustees of the System, in conjunction with the Employing Institutions, administers the Optional Retirement Program for certain higher education employees to the extent provide in Title 30 of the SPP. The ORP is a defined contribution plan established under IRC Section 403(b) and funded by mandatory State contributions for the benefit of those eligible employees who elected to participate in the ORP instead of the Employees' or Teachers' Retirement or Pension Systems. Information regarding the ORP, including the ORP plan document, is available at <https://sra.maryland.gov/optional-retirement-program>. The Employing Institutions also administer supplemental defined contribution retirement plans under IRC Sections 401(a), 403(b), 457(b) and 457(f), and confront a number of complex tax and benefits issues related to the operations of an Employing Institution.

The DBM administers the State Employee and Retiree Health and Welfare Benefits Program, including an employee benefit plan established under IRC Section 125 as a cafeteria plan to provide pre-tax health and welfare benefits options to State employees and retirees.

The MTA administers one defined benefit plan in which four different groups participate. The groups covered by this plan are those under the three collective bargaining agreements and approximately 230 managerial employees who have been promoted to management from bargaining unit positions and allowed to continue in the plan. There are slight differences in the administration of the plan across these groups resulting from the bargaining climate of each individual union. In total, the MTA plan covers approximately 3,000 active and retired employees.

The MSRP was established in accordance with SPP Title 35 to administer the State's four supplemental defined contribution plans: the Deferred Compensation Plan and Trust established pursuant to Title 35, Subtitle 6 of the SPP and IRC Section 457(b) (the "457 Plan"); the Savings and Investment Plan and Trust established pursuant to Title 35, Subtitle 5 of the SPP and IRC Section 401(k) (the "401(k) Plan"); the 403(b) Tax Deferred Annuity Plan established pursuant to Title 35, Subtitle 4 of the SPP and IRC Section 403(b) (the "403(b) Plan"), and the 401(a) Match Plan and Trust established pursuant to Title 32, Subtitle 2 of the SPP and IRC Section 401(a) (the "Match Plan" and together with the 457 Plan, the 401(k) Plan, and the 403(b) Plan, the "Supplemental Plans"). The Supplemental Plans are overseen by a nine-member Board of Trustees, the members of which are appointed by the Governor in accordance with the membership requirements set forth in SPP §35-202. As of June 30, 2018, the Supplemental Plans had 60,696 participants maintaining active accounts, of which 34,278 participants were actively deferring into the Supplemental Plans, with \$4.0 billion in invested assets. The Comprehensive Annual Financial Report for the MSRP for the year ended June 30, 2018, and the plan document for each of the Supplemental Plans are available on the MSRP website: www.msrp.maryland.gov.

B. Services to be Provided:

Upon request and subject to the Required Procedures set forth in §1.C. below, the Contractor shall provide legal advice and assistance in connection with the administration of any of the above-referenced retirement, pension or health and welfare plans, on matters including but not limited to:

- 1) Compliance with applicable federal laws and regulations, including, but not limited to, the IRC;
- 2) Preparation and filing plan documents for tax qualification;
- 3) The taxability of the various distributions from the plans;
- 4) Compliance with IRS reporting requirements;
- 5) Compliance with IRC and other federal law provisions relating to employer-sponsored health plans, including PPACA, Medicare, and cafeteria plan rules;
- 6) Changes in the tax laws that may affect tax qualification, the taxability of distributions from the plans, IRS reporting requirements, or the general administration of the plans;
- 7) Fiduciary law issues including, but not limited to: (a) compliance with fiduciary responsibilities arising in connection with the management or administration of the plans; (b) plan governance policies and procedures; and (c) ethics and conflicts of interest issues;
- 8) Other employee benefit or plan administration issues that may arise in connection with the administration and on-going operation of governmental retirement, pension and employee benefits plans, and trust funds from time to time, including, but not limited to, data and information security, plan governance, and legislative proposals; and
- 9) Such other services upon request, including, but not limited to:
 - a) Client communications; client meetings; client education – The Contractor will: (i) provide timely notices (through memoranda, alerts, newsletters or other written communications) of changes in laws that may affect tax qualification, the taxability of distributions from the plans, IRS reporting requirements, or the general administration of the plans, (ii) be available to meet with counsel and/or appropriate business people regarding the foregoing, and (iii) assist counsel in providing ongoing client education to appropriate business people regarding the foregoing;
 - b) Other meetings – The Contractor will be available to meet with third parties designated by the OAG as applicable regarding the plans, including, but not limited to (i) actuaries for any of the plans, and (ii) representatives of the legislative and executive branches of State government;
 - c) Regulatory assistance – The Contractor will be available to assist in preparing and submitting documents (e.g., private letter ruling requests, comments on proposed regulations) to the IRS, as well as assisting in any negotiations with the IRS; and
 - d) Advice – The Contractor will be available to provide general tax and benefits advice for the Employing Institutions, whether or not related to the supplemental retirement plans.

C. Required Procedures:

As applicable, the Contractor will work closely with the Principal Counsel of the System, the Chief Counsel of the Educational Affairs Division, the Principal Counsel of the DBM, the Principal Counsel of the MTA, or the Counsel of the MSRP (the "Managing OAG Attorney"). All legal services relating to the System and the ORP are to be provided only at the request of the Principal Counsel of the System or her designees, and such services are to be provided directly to the Principal Counsel of the System or her designees. All legal services relating to the benefits and plans administered by the DBM are to be provided only at the request of the Principal Counsel of the DBM or his designees, and such services are to be provided directly to the Principal Counsel of the DBM or his designees. All legal services relating to the plans administered by the MTA are to be provided only at the request of the Principal Counsel of the MTA, and such services are to be provided directly to the Principal Counsel of the MTA or his designees. All legal services relating to (i) the supplemental retirement plans administered by the Employing Institutions, or (ii) tax and benefits issues that may arise generally with the Employing Institutions, are to be provided only at the request of the Chief Counsel, Educational Affairs Division, or her designee, and such services are to be provided directly to the Chief Counsel, Educational Affairs Division, or her designee. All legal services relating to the plans administered by the MSRP are to be provided only at the request of the Counsel of the MSRP or her designees, and such services are to be provided directly to the Counsel of the MSRP or her designees.

The Contractor is not authorized generally to enter into discussions directly with the System's staff, the DBM's staff, the MTA's staff, staff of the Employing Institutions, the MSRP's staff, or the respective advisors of those entities. The Contractor is not authorized to provide any legal services pertaining to the System or the ORP except on the request of the Principal Counsel of the System or her designees.

The Contractor will be expected to familiarize itself, at no cost, with the terms and conditions of the above-referenced retirement, pension, and benefits plans, and trust funds. All work product and communications regarding the services to be performed under any resulting contract shall be confidential and privileged.

2. General Conditions.

The Contract term shall commence as of the date specified in the Contract and shall end the later of: (a) three (3) years after the commencement date or (b) upon completion of all work authorized on or before the expiration date, unless renewed or sooner terminated in accordance with the Contract. At the sole option of the Attorney General, the Contract may be renewed for one or more additional terms not to exceed two years in the aggregate.

The Contractor will be paid from existing fund sources on the basis of a blended fixed hourly rate to be agreed upon plus reimbursable expenses incurred in connection with the performance of those services on the terms and conditions set forth in the Contract. Payments to the Contractor will be based upon a reasonable number of actual hours expended by the Legal Team in the performance of the services, as approved by the Managing OAG Attorney, depending upon who requested and received the services. The Contractor must document and provide support for these hours in a manner satisfactory to the Managing OAG Attorney requesting the work. By way of example only, the Chief Counsel for the Educational Affairs Division may request that the bill be broken down by the Employing Institution for which the services are being performed. Certain work may be undertaken on a fixed fee basis or other alternative billing arrangement basis.

The Attorney General cannot predict the extent to which assistant tax and benefits counsel may be requested to provide legal advice relating to the retirement, pension and benefits plans and trust funds administered by the System, the DBM, the MTA, the Employing Institutions and MSRP. The Managing OAG Attorney and/or other Assistant Attorneys General may handle all or some portion of this work. The

Attorney General reserves the right to select more than one firm to serve as Assistant Tax and Benefits Counsel, and if so, the Managing OAG Attorneys, as applicable, will determine in their sole discretion which Contractor is best suited to provide legal services on any particular matter at any given time. The Attorney General does not promise or guarantee any minimum level of work or compensation during the term of the Contract.

The OAG desires that socially and economically disadvantaged individuals and minority business enterprises ("MBEs") as defined in §14-301 of the State Finance and Procurement Article (the "Procurement Article") of the Annotated Code of Maryland have the maximum practicable opportunity to participate in the Contract. When permitted or required by law, the OAG encourages the use of socially and economically disadvantaged individuals and MBEs for contracting and subcontracting opportunities. Assistant Tax and Benefits Counsel should desire to promote and undertake efforts to reach out to socially and economically disadvantaged individuals and MBEs to maximize their participation in the Contract.

This RFP, all proposals, and the resulting Contract(s) are subject to Maryland's Public Information Act, Title 4 of the General Provisions Article of the Annotated Code of Maryland. Offerors must specifically identify those portions of their proposals, if any, which they deem to include confidential, proprietary information or trade secrets and must provide justification why such material should not, upon request, be disclosed by the State under the Public Information Act. Upon request for this information from a third party, the Procurement Officer will make an independent determination whether the information is disclosable.

This RFP and any Contract entered into as a result hereof is not subject to the provisions of Division II of the Procurement Article or the State procurement regulations as set forth in COMAR Title 21 (collectively, the "Procurement Law"). Nonetheless, the requirements of the Procurement Law will be applied to this RFP and the Contract to the extent practicable and consistent with obtaining the best legal counsel for the OAG, all as determined in the sole discretion of the Procurement Officer. The dispute resolution and appeal procedures contained in the Procurement Law will not apply to this solicitation.

Interested persons who obtained this RFP by means of downloading electronic files of the RFP and attachments from the OAG website or otherwise obtained this RFP are required to send written notice to Rachel Cohen, Principal Counsel, Maryland State Retirement and Pension System of their name, mailing address, email address, telephone and fax numbers so that they may be put on the mailing list ("Prospective Offerors' List") and included in any future communications about the RFP.

Rachel Cohen, Principal Counsel of the Maryland State Retirement and Pension System, is the Procurement Officer and sole point of contact for this RFP. **Questions about this RFP may be submitted in writing to Ms. Cohen no later than 4:00p.m. on September 17, 2019.** A list of the questions and answers to questions will be provided to all persons on the Prospective Offerors' List. Answers will be provided, if possible, without disclosure of the identity of the person or party asking the question. There will be no pre-proposal conference.

The Attorney General reserves the right to amend this RFP and any amendments will be mailed or emailed to all persons on the Prospective Offerors' List. The Attorney General also reserves the right to cancel this RFP and notice of cancellation will be mailed or emailed to all persons on the Prospective Offerors' List. The OAG, the System, the Employing Institutions, the DBM, the MTA, the MSRP and the State are not responsible for any expenses an Offeror may incur in connection with developing and submitting a proposal.

We will consider proposals submitted by joint ventures (of no more than two entities, please) so long as the joint venture arrangement meets our and our clients' needs. If a joint venture proposal is selected, the Attorney General will enter into a contract with each firm.

3. Written Proposal

In order to be considered for this engagement, you must submit a written proposal, consisting of a Technical Proposal and a Price Proposal. The Technical Proposal and the Price Proposal must be submitted in separate, sealed envelopes. Please use the Price Proposal form (Attachment D) for your Price Proposal.

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror's proposal, using double-sided printing where appropriate, to meet the requirements of the RFP. By submitting a proposal, you accept all of the terms and conditions of this RFP. If selected, you will be expected to enter into the Contract, the form of which is attached as Attachment E. The terms and conditions of the Contract are not subject to negotiation. By submitting a proposal, you will be deemed to represent that your firm is not in arrears in the payment of any obligation due and owing the State of Maryland, including the payment of taxes and employee benefits.

You must deliver five (5) copies of your written proposal to Rachel Cohen, Principal Counsel, Maryland State Retirement and Pension System, at 120 East Baltimore Street, 14th Floor, Baltimore, Maryland 21202 no later than **4:00 p.m. on October 11, 2019**. The Technical Proposal and the Price Proposal must be submitted in **separate sealed envelopes**. An **electronic copy of the Technical Proposal** must **also** be submitted to Rachel Cohen at rcohen@sra.state.md.us.

A. Technical Proposal.

The Technical Proposal shall include the following information and shall be presented in the following order:

- 1) Full legal name and principal place of business of the law firm making the proposal.
- 2) Name and contact information for the person designated as the contact person for purposes of this RFP and any resulting Contract. Please provide name, mailing address, email address, telephone number and fax number of the contact person.
- 3) General information on the areas of law in which the law firm specializes.
- 4) Name, mailing address, email address, telephone number, and fax number of the individual who will head the team of attorneys and other para-professionals (paralegals and attorneys not admitted to practice) participating in this engagement (collectively, the "Legal Team").
- 5) Information demonstrating compliance with each of the enclosed Minimum Qualifications (Attachment A).
- 6) Name and address of each attorney participating on the Legal Team and his or her respective position in the law firm. For each attorney, please submit a brief resume indicating relevant experience and the jurisdictions in which the attorney is admitted to practice.
- 7) The proposed role of each person who will participate on the Legal Team, the planned division of responsibilities among the members of the Legal Team, and the availability of

each member of the Legal Team to perform services requested under the Contract. For a joint venture, also discuss the division of responsibilities between the entities, including the type and approximate percentage of work to be performed by each entity.

- 8) The following information which will be used to evaluate how the Offeror's experience matches up with the needs of the client:

a) *Tax and Benefits Experience.* A detailed description of the Offeror's experience serving as tax and benefits counsel for retirement, pension, health and other employee and retiree benefit plans. The Offeror should identify the plans that the Offeror has represented during the last five years, the role of the Offeror, and whether the plans are public or private, defined benefit, defined contribution, or hybrid, self-funded (for health benefits) or collectively bargained. Of those plans, the Offerors should select those plans for which it provided the most substantial amount of services and provide the following information for no more than six plans: (i) period during which services were rendered, (ii) type of plan, (iii) size of the plan (by market value, participants and employer(s)); and (iv) range of responsibilities. In discussing the range of responsibilities, describe with specificity the services which the Offeror provided (e.g., reviewing and drafting plan documents, drafting legislation, presenting information regarding tax qualification and other pertinent matters to clients, submitting plan documents to the IRS for plan determination, negotiating with the IRS).

b) *Selected Experience.* A description of the Offeror's experience and responsibilities with § 401(a), §401(k) § 403(b), § 457(b), and § 457(f) plans offered for employees of educational institutions. Specify the nature of the Offeror's responsibilities and experience with retirement plans integrated with Social Security and collectively bargained plans.

c) *Creative Solutions.* At least one, but not more than four, examples of creative or innovative techniques or solutions developed or put forth by the Offeror in connection with a tax issue experienced by a public pension plan client, and a brief description of the Offeror's involvement.

d) *Client Communications.* A description of the client communications, client meetings and client education provided by the Offeror regarding changes in laws that may affect tax qualification, the taxability of distributions, IRS reporting requirements, or plan administration. Recent samples of the Offeror's client alerts or newsletters, preferably relating to the administration and on-going operation of governmental retirement and pension plans, should be appended to the Offeror's Technical Proposal.

f) *Related Legal Experience.* A brief description of the Offeror's experience in areas of the law related to public pension plans, including, but not limited to, fiduciary, securities, bankruptcy, information security, and public pension plan investments.

g) *Plan Compliance.* A brief description of the Offeror's experience reviewing plan documents and/or operations and providing opinion letters to plans regarding their continued qualified and/or tax-advantaged status. To the extent the Offeror has provided such opinion letters, please indicate the range of hours involved in such projects.

- 9) Names, email addresses, and telephone numbers of three clients (and respective contact persons for those clients) for whom you have provided services similar to those described in this RFP, with a brief description of the work performed. These persons will be

considered as references and may be contacted by the OAG in its evaluation of the proposal.

- 10) Names, email addresses, and telephone numbers of contact persons at any units of the State of Maryland for whom you have provided legal counsel in the last three years. These persons will be considered references and may be contacted by the OAG in its evaluation of the proposal.
- 11) A statement indicating whether the firm is an MBE as defined in the Procurement Law and addressing the firm's MBE status, and which members of the Legal Team meet the definition of a socially and economically disadvantaged individual, as defined by § 14-301 of the Procurement Article.
- 12) A detailed description of the firm's procedure for checking conflicts of interest, whether there are any known or potential conflicts which may arise if the Offeror serves as Assistant Tax and Benefits Counsel to the Attorney General, and how the Offeror proposes to deal with such conflicts. (See Attachment C-1.)
- 13) A completed and executed Proposal Affidavit (Attachment B) and a completed and executed Conflict of Interest Affidavit (Attachment C-2).
- 14) Any other information which you consider essential to a fair evaluation of your firm's experience and capabilities.
- 15) Written affirmation that the person(s) submitting the proposal is/are authorized to do so on behalf of the Offeror and certification that, to the best of his or her knowledge, the information submitted in the Technical Proposal is accurate, complete, and correct as of the date of the proposal.

B. Price Proposal.

The Price Proposal must be submitted using the form attached as Attachment D and must be submitted in a *separate sealed envelope*. It shall contain the following information:

- 1) The blended fixed hourly rate for all attorneys rendering services during the initial three (3) year term of the Contract;
- 2) The blended fixed hourly rate for para-professionals (paralegals and attorneys not admitted to practice) rendering services during the initial three (3) year term of the Contract;
- 3) The blended fixed hourly rate for all attorneys rendering services during any renewal term of the Contract that is authorized; and
- 4) The blended fixed hourly rate for para-professionals rendering services during any renewal term of the Contract that is authorized.

4. Evaluation and Selection.

We reserve the right to conduct oral presentations with qualified Offerors to discuss this RFP and the Offeror's proposal and ability to perform the proposed Contract. We anticipate meeting qualified Offerors during the week of November 4, 2019, at the offices of the System located at 120 East Baltimore

Street, Baltimore, MD 21202. If you are not available during this time or if certain times are more convenient, please indicate that in your written proposal. We will try to accommodate your needs. The oral presentations will be approximately one hour and will be informal and will include substantive questions.

Technical Proposals (and oral presentations, if any) will be evaluated before Price Proposals are opened. Please note that Technical Proposals not meeting the Minimum Requirements described in Attachment A may not be evaluated. After reviewing the Price Proposals, there may be additional discussions with Offerors, including a request for best and final offers. The following evaluation factors will be used and are listed in the order of relative importance: (a) technical merit, as reflected in the written Technical Proposal and the oral presentation (if any); (b) price; (c) the Offeror's conflict of interest policy; (d) participation of MBEs and socially and economically disadvantaged individuals, to the extent permitted by law, and (e) any other factors that the Attorney General deems to be relevant.

Contract award will be made to that Offeror, or Offerors, whose proposal contains the combination of those criteria offering the best overall value to the Attorney General and the State. Selection of counsel will be solely the decision of the OAG, and we reserve the right to reject any and all proposals, to waive informalities and minor irregularities in proposals, and to negotiate with any and all Offerors who submit them. We may select the successful Offeror on the basis of initial written proposals without discussions with Offerors and without requesting a best and final offer, so please take care in submitting your Technical and Price Proposals. The OAG may select more than one Offeror to provide services under this RFP.

Five (5) copies of your written proposal should be delivered to Rachel Cohen, Principal Counsel, Maryland State Retirement and Pension System, at 120 East Baltimore Street, 14th Floor, Baltimore, Maryland 21202 no later than 4:00 p.m. on October 11, 2019. The Technical Proposal and the Price Proposal must be submitted in separate sealed envelopes. An electronic copy of the Technical Proposal only must also be submitted to Rachel Cohen at rcohen@sra.state.md.us.

If you have any questions, please submit them in writing to Rachel Cohen on or before 4:00 p.m. on September 17, 2019. Thank you for your interest.

Very truly yours,

Rachel S. Cohen
Principal Counsel
Maryland State Retirement and Pension System
Procurement Officer

Attachments:

- A - Minimum Qualifications
- B - Bid/Proposal Affidavit (to be completed and returned with Technical Proposal)
- C-1 - Conflict of Interest Provisions
- C-2- Conflict of Interest Affidavit (to be completed and returned with Technical Proposal)
- D- Price Proposal Form (to be completed and returned in a separate sealed envelope)
- E - Form Contract
- F - Form of Contract Affidavit

ATTACHMENT A

MINIMUM QUALIFICATIONS

The Offeror must meet all of the minimum requirements set forth below to be considered qualified:

Professional Liability Insurance. The Offeror shall agree to maintain in full force and effect (during both the term of the Contract and thereafter for the entire period in which the Offeror may incur professional liability in connection with performance or failure to perform under the Contract) professional liability insurance in an aggregate amount of not less than five million dollars (\$5,000,000), which liability insurance shall include coverage for practice in the fields of law related to the Contract. In order to satisfy this requirement, the Offeror must (1) include a statement in its Technical Proposal affirmatively responding to this requirement, and (2) include in its Technical Proposal either (a) a certificate of insurance or letter from its insurer demonstrating that the Offeror meets this requirement, or (b) a commitment letter or other evidence, satisfactory to the Procurement Officer, that Offeror will have such coverage as of the date the Contract commences.

If the Offeror is a joint venture, and one party of the joint venture does not presently have such liability insurance, this requirement may be satisfied if the members of the joint venture include in its proposal evidence, satisfactory to the Procurement Officer, that all members of the joint venture will have such coverage as of the date the Contract commences, either through actual insurance policies or an indemnity agreement by the properly insured firm, in form and substance acceptable to the Procurement Officer.

Prior Experience. At least two attorneys on the Offeror's legal team must have substantial experience providing tax and benefits advice and representation to governmental defined benefit plans and governmental defined contribution plans over the last seven (7) years. One or more attorneys on the Offeror's legal team must be a partner or equivalent.

Offeror's Capacity. The Offeror must demonstrate the capacity to perform the services needed by the OAG described in the RFP under the caption "Scope of Services." The Offeror must be available at all times to render services required under the Contract.

Public Ethics: The negotiation of or entering into the Contract must not give rise to a violation of the Maryland Public Ethics Law, Title 5 of the General Provisions Article of the Annotated Code of Maryland, and regulations promulgated thereunder.

ATTACHMENT B

PROPOSAL AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/Proposal on this project, the Bidder/Offeror has considered all Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland.

"Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal. As part of its Bid/Proposal, the Bidder/Offeror herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has been convicted of, or has had probation before judgment imposed pursuant to, Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

(a) §7201, Attempt to Evade or Defeat Tax;

(b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,

(c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;

(d) §7206, Fraud and False Statements, or

(e) §7207 Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: _____

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the bid or bid/proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 C.F.R. §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

L. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be

construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (Signature of Authorized Representative and Affiant)

_____ (Print Name of Authorized Representative and Affiant)

_____ (Title of Authorized Representative and Affiant)

ATTACHMENT C-1

CONFLICT OF INTEREST PROVISIONS

1. General. If a conflict of interest arises, the Offeror must be willing to continue to represent the System, the Employing Institutions, the DBM, the MTA, the MSRP, the State and/or the Office of the Attorney General, and be in a position to inform other existing or potential clients that they must find representation elsewhere in particular situations.

The Attorney General may entertain a request for a waiver of an Offeror's representation of a party in litigation involving a unit of State government other than: (a) the Office of the Attorney General, (b) the System, if services are being provided to the System, (b) the MTA, if services are being provided to the MTA, (c) an Employing Institution, if services are being provided to an Employing Institution, (d) DBM, if services are being provided to DBM, and (e) MSRP, if services are being provided to MSRP. However, the Attorney General does not expect to waive any other conflicts. The Attorney General reserves the right, in his sole discretion, to select another contractor or law firm to represent it in a particular matter if a conflict is not resolved to the satisfaction of the Attorney General or his designee.

Offerors shall identify (i) any known conflicts of interest and (ii) any conflicts of interest which may arise if the Offeror serves as Assistant Tax and Benefits Counsel to the Attorney General and shall describe in its Technical Proposal how it proposes to deal with such conflicts. Conflicts may arise not only from attorneys named on the contract but also from representation of parties involved in transactions or other matters involving the System, the DBM, the MTA, an Employing Institution the MSRP, or the Office of the Attorney General by any other member of the firm, regardless of whether that attorney is in the same office or a different office of the firm.

2. Conflict Check System. The Offeror shall describe in detail its existing system for identifying conflicts of interest in undertaking new representation. The description shall include information about who maintains the central records, how often information is updated, and at what stage of representation the check is made. The Offeror shall provide a copy of its written conflicts policy or explain in detail why there is no written policy.
3. Potential Conflicts. Prior to entering into a contract, the Contractor shall provide assurances that potential conflicts have been discussed with other existing clients of the Contractor who might be requested to engage other counsel for a specific transaction, and that those existing clients are amenable to such an inconvenience.
4. Resolving Conflicts. The Offeror shall identify any conflicts of interest that may arise if the Offeror serves as Assistant Tax and Benefits Counsel and shall describe how it proposes to avoid such conflicts. The Contract will require the Contractor to notify the Contract Officer immediately of any potential conflicts of interest and to undertake immediate action to eliminate the source of the potential conflict. The OAG reserves the right to make the Contractor aware of situations in which it believes the Contractor is involved which may present a conflict of interest and to request that the Contractor promptly remedy the situation to the satisfaction of the Attorney General or his designee.

ATTACHMENT C-2

CONFLICT OF INTEREST AFFIDAVIT

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a Bidder/Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Bid/Proposal is made.

C. The Bidder/Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise, or which could in the future give rise, to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The Bidder/Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Bidder/Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Bidder/Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date:_____ By:_____
(Authorized Representative and Affiant)

ATTACHMENT D

PRICE PROPOSAL

Name, Address and Telephone Number of Offeror:

1. **For the Initial Three (3) Year Contract Term**, Offeror submits the following Price Proposal as the one blended fixed hourly rate:
 - a) For all attorneys rendering services under this Contract: \$ _____/hour
 - b) For all para- professionals rendering services under this Contract: \$ _____/hour
2. **For any authorized Renewal Term**, Offeror submits the following Price Proposal as the one blended fixed hourly rate:
 - a) For all attorneys rendering services under this Contract: \$ _____/hour
 - b) For all para- professionals rendering services under this Contract: \$ _____/hour

NOTE:

No compensation will be permitted for the services of law clerks.

The undersigned certifies for the Offeror that he or she is authorized to sign this Price Proposal and, to the best of his or her knowledge, the information submitted in this Price Proposal is accurate, complete, and correct as of the date set forth below.

Date

Signature

Printed Name

Title

ATTACHMENT E
FORM OF CONTRACT

CONTRACT FOR ASSISTANT TAX AND BENEFITS COUNSEL

This Contract for Assistant Tax and Benefits Counsel (this "Contract"), dated as of the _____ day of _____, 2019, is made by and between the Attorney General of the State of Maryland (the "Attorney General"), and _____, whose Federal Tax Identification Number is _____ (the "Contractor").

1. Contract.

1.1 Contract Documents; Order of Precedence. This Contract consists of the matters identified in this Section 1.1 (the "Contract Documents"), all of which are part of this Contract as if fully set forth herein (all as amended from time to time):

A. This Contract consisting of pages 1 through _____ and all attachments thereto (the "Standard Contract");

B. Attachment A: Request for Proposals for Assistant Tax and Benefits Counsel for the Maryland State Retirement and Pension System and the Several Retirement and Benefit Plans Administered by the State of Maryland, dated September 3, 2019 (the "RFP");

C. Attachment B: Contractor's Technical Proposal and Price Proposal dated _____, 2019 (collectively, the "Proposal"; the RFP and the Proposal being referred to as the "Solicitation Documents"); and

D. Attachment C: Contract Affidavit (the "Affidavit").

The obligations, representations, terms and conditions set forth in the Solicitation Documents and the Affidavit are provisions of this Contract and are supplemental to the provisions set forth in the Standard Contract.

If there are any inconsistencies between or among the Standard Contract or Attachments A, B, or C, the Contract Documents shall control in the following order of priority: Standard Contract, then Attachment A, then Attachment B, then Attachment C.

1.2 Contract Term. This Contract shall commence on _____, 2019 (the "Commencement Date") and shall expire on the later of (a) three years after the Commencement Date (the "Expiration Date"), or (b) upon completion of all work authorized on or before the Expiration Date, unless renewed or sooner terminated in accordance with this Contract. At the sole option of the Attorney General, this Contract may be renewed for one or more additional terms not to exceed two years in the aggregate. The Contractor shall be notified at least thirty days prior to the end of the initial term or any renewal term whether the Contract will be renewed and what the length of the renewal term (if any) will be.

2. Scope of Services.

2.1 Subject to §§ 2.2, 2.3 and 2.4 below, Contractor shall serve as assistant tax and benefits counsel to the Attorney General to advise the Attorney General and members of the Office of the Attorney General (“OAG”) on an as-needed basis in connection with the following:

A. The Maryland State Retirement and Pension System, its Board of Trustees, and the Maryland State Retirement Agency (collectively referred to herein as the “System”);

B. The Optional Retirement Program (“ORP”), a State-funded defined contribution plan established for eligible higher education employees who elect not to participate in the System;

C. The supplemental defined contribution retirement plans established by the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, Baltimore City Community College, Maryland Higher Education Commission and certain community colleges (collectively referred to herein as the “Employing Institutions”) for eligible higher education employees, as well as tax and benefits issues that may arise generally with the Employing Institutions;

D. The State Employee and Retiree Health and Welfare Benefits Program administered by the Maryland Department of Budget and Management (the “DBM”) that provides health and welfare benefits to State employees and retirees;

E. The defined benefit retirement plans administered by the Maryland Transit Administration (the “MTA”);

F. The Maryland Teachers & State Employees Supplemental Retirement Plans and its Board of Trustees, which administer the State of Maryland’s supplemental defined contribution plans (collectively referred to herein as the “MSRP”); and

G. Such other tax and benefits issues that may arise with respect to retirement and benefit plans administered by the State of Maryland or the Employing Institutions.

2.2. Upon request, the Contractor shall provide legal advice and assistance in connection with the administration of any of the above-referenced retirement, pension or health and welfare plans, on matters including but not limited to:

A. Compliance with applicable federal laws and regulations, including, but not limited to, the Internal Revenue Code;

B. Preparation and filing plan documents for tax qualification;

C. The taxability of the various distributions from the plans;

- D. Compliance with IRS reporting requirements;
- E. Compliance with IRC and other federal law provisions relating to employer-sponsored health plans, including PPACA, Medicare, and cafeteria plan rules;
- F. Changes in the tax laws that may affect tax qualification, the taxability of distributions from the plans, IRS reporting requirements, or the general administration of the plans;
- G. Fiduciary law issues including, but not limited to: (i) compliance with fiduciary responsibilities arising in connection with the management or administration of the plans; (ii) plan governance policies and procedures; and (iii) ethics and conflicts of interest issues;
- H. Other employee benefit or plan administration issues that may arise in connection with the administration and on-going operation of governmental retirement, pension and employee benefits plans from time to time, including, but not limited to, data and information security, plan governance, and legislative proposals; and
- I. Such other services upon request, including, but not limited to:
 - i) Client communications; client meetings; client education – The Contractor will: (a) provide timely notices (through memoranda, alerts, newsletters or other written communications) of changes in laws that may affect tax qualification, the taxability of distributions from the plans, IRS reporting requirements, or the general administration of the plans, (b) be available to meet with counsel and/or appropriate business people regarding the foregoing, and (c) assist counsel in providing ongoing client education to appropriate business people regarding the foregoing;
 - ii) Other meetings – The Contractor will be available to meet with third parties designated by the OAG as applicable regarding the plans, including, but not limited to (a) actuaries for any of the plans, and (b) representatives of the legislative and executive branches of State government;
 - iii) Regulatory assistance – The Contractor will be available to assist in preparing and submitting documents (e.g., private letter ruling requests, comments on proposed regulations) to the IRS, as well as assisting in any negotiations with the IRS; and
 - iv) Related Advice – The Contractor will be available to provide general tax and benefits advice for the Employing Institutions, whether or not related to the supplemental retirement plans.

2.3 As applicable, the Contractor will work closely with the Principal Counsel of the System, the Chief Counsel of the Educational Affairs Division, the Principal Counsel of the DBM, the Principal Counsel of the MTA, or the Counsel of the MSRP (the “Managing OAG Attorney”). All legal services relating to the System and the ORP are to be provided only at the request of the Principal Counsel of the System or her designees, and such services are to be provided directly to the Principal Counsel of the System or her designees. All legal services

relating to the benefits and plans administered by the DBM are to be provided only at the request of the Principal Counsel of the DBM or his designees, and such services are to be provided directly to the Principal Counsel of the DBM or his designees. All legal services relating to the plans administered by the MTA are to be provided only at the request of the Principal Counsel of the MTA, and such services are to be provided directly to the Principal Counsel of the MTA or his designees. All legal services relating to (i) the supplemental retirement plans administered by the Employing Institutions, or (ii) tax and benefits issues that may arise generally with the Employing Institutions, are to be provided only at the request of the Chief Counsel, Educational Affairs Division, or her designee, and such services are to be provided directly to the Chief Counsel, Educational Affairs Division, or her designee. All legal services relating to the plans administered by MSRP are to be provided only at the request of the Counsel of the MSRP or her designees, and such services are to be provided directly to the Counsel of MSRP or her designees. The Contractor may not devote time to any or all of the services to be performed, or incur expenses, absent the prior authorization of the Managing OAG Attorney or the Managing OAG Attorney's designees. The Contractor is not authorized generally to enter into discussions directly with the System's staff, the DBM's staff, the MTA's staff, staff of the Employing Institutions, the MSRP's staff, or the respective advisors of these entities. The Contractor is not authorized to provide any legal services pertaining to the System or the ORP except on the request of the Principal Counsel of the System or her designees.

2.4 The Attorney General shall have the unilateral right to require changes in the scope of services, provided such changes are within the general scope of the work to be performed. The Contractor will be expected to familiarize itself, at no cost, with the terms and conditions of the above-referenced retirement, pension, and benefits plans. All work product and communications regarding the services to be performed under any resulting contract shall be confidential and privileged. As to confidentiality and privilege, this Section 2.4 shall survive expiration or termination of the Contract.

3. Compensation and Method of Payment.

3.1 The Contractor shall be paid for services rendered under the Contract as follows:

A. The Contractor shall be paid by the unit of State government for which its services have been requested, (i) if services are provided on an hourly basis, from time to time but not more often than monthly, out of the funds, if any, that may be appropriated or may otherwise be made available for such payment; or (ii) if services are provided on a fee per project basis, at the conclusion of the project.

B. Payments to the Contractor shall be based upon a reasonable number of actual hours expended by the Contractor's attorneys and para-professionals in the performance of the services, as approved by the Managing OAG Attorney, depending upon who requested and received the services. The Contractor must document and provide support for these hours in a manner satisfactory to the Managing OAG Attorney requesting the work. The approved number of hours or partial hours will be multiplied by the fixed blended hourly rates of compensation listed in paragraph C of this § 3.1.

C. The one blended fixed hourly rate of compensation for each attorney performing services under the initial term of this Contract shall be \$ _____ per hour and the one blended fixed hourly rate of compensation for each para-professional performing services under the initial term of this Contract shall be \$ _____ per hour. The one blended fixed hourly rate of compensation for each attorney performing services under any authorized renewal term of this Contract shall be \$ _____ per hour and the one blended fixed hourly rate of compensation for each para-professional performing services under any authorized renewal term of this Contract shall be \$ _____ per hour.

D. At the sole discretion of the OAG, the applicable Managing OAG Attorney may request, and the Contractor shall provide an alternate fee proposal for a specific assignment, such as a fixed fee per project rather than an hourly rate. The Managing OAG Attorney may request more than one Contractor to provide an alternate fee proposal and select from among the contractors the one that best meets the needs of the OAG. In making its selection, the Managing OAG Attorney shall take into account, among other factors that the Managing OAG Attorney or designees deem relevant, the type and amount of the fee proposed, the experience of the Contractor, and the other clients that the Contractor is representing in the matter.

3.2 A. During the term of this Contract, the Contractor shall be reimbursed for all reasonable, allowable and allocable direct costs and expenses related to travel expenses incurred by the Contractor in the performance of the Contract outside the greater Baltimore-Washington area; provided, however, that (i) expenses of transportation, meals and lodging will be reimbursed at no more than the rates set in the State Standard Travel Regulations (COMAR 23.02.01 or any successor provisions thereto), and (ii) the travel is authorized by the Managing OAG Attorney, as applicable.

B. The Contractor will not be reimbursed for indirect costs. These include, but are not limited to, the following:

1. Secretarial services whether performed during normal business hours or overtime except as specifically authorized by the applicable Managing OAG Attorney;
2. Local transportation costs of professionals and para-professionals;
3. In-house messenger services;
4. Para-professional overtime costs;
5. Long distance telephone or telefax costs;
6. Photocopying charges;
7. Electronic search or research costs; or

8. Messenger or overnight delivery services, unless requested by the Managing OAG Attorney.

Non-reimbursed expenses may not be recovered indirectly through hourly time charges.

3.3 The Contractor shall maintain records relating to the costs and expenses incurred by the Contractor in the performance of the Contract for a period of three years from the date of final payment under the Contract.

3.4 The Contractor shall submit invoices to the Counsel who requested and received the services at the times or for the periods that the Counsel requires, for costs and expenses incurred, itemized in a manner satisfactory to the Counsel. Each invoice shall indicate Contractor's Federal Tax Identification Number.

3.5 The OAG shall not withhold federal, State and local taxes and FICA taxes, if any, from payments made pursuant to the Contract.

4. Procurement Officer and Contract Officer. The Procurement Officer and the Contract Officer for this Contract is Rachel S. Cohen, Assistant Attorney General and Principal Counsel to the System. The OAG may change the Procurement Officer or Contract Officer at any time by written notice to the Contractor.

5. Entire Agreement/Contract Modification. This Contract including the Attachments constitutes the entire agreement between the parties and any other communications between the parties before the execution of this Contract, whether written or oral, with reference to the subject matter of this Contract, are superseded by the agreements contained herein. This Contract may not be modified, amended, changed, or altered except by written instrument executed by the parties hereto and approved by the Contract Officer.

6. Governing Law. This Contract shall be construed, interpreted and enforced according to the laws of the State of Maryland. Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended. This Section 6 shall survive expiration or termination of the Contract.

7. Nondiscrimination in Employment. The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

8. Contractor Responsibilities. The Contractor shall assume sole responsibility for all work to be performed under this Contract. The Contractor shall perform the services with the standard of care, skill, and diligence normally provided by nationally recognized legal counsel in the performance of services similar to the services to be performed hereunder. The Contractor shall not make any changes in the composition of the legal team, the division of responsibilities among members of the team or the availability of members of the team (including the senior members) as specified by the Contractor pursuant to the RFP without the prior written consent of the Contract Officer. Any change to the composition of the legal team, the division of responsibilities among members of the team or the availability of members of the team (including the senior members) without the prior written consent of the Contract Officer may be deemed an event of default by the Contractor under this Contract. The Contractor confirms by its signature that it is thoroughly qualified and familiar with all required duties and responsibilities and will discharge the same diligently, fully, and properly and in accordance with all ethical and professional duties and obligations.

9. Subcontracting. The Contractor shall not subcontract, in whole or in part, for any of the services to be performed under this Contract, without the prior written consent of the Attorney General and the Contract Officer. Any subcontracts shall include such language as may be required in the various clauses contained within this Contract. The State shall not be responsible for the fulfillment of the Contractor's obligations to its subcontractors.

10. Assignment of Contract. The Contractor shall not assign, transfer, convey or otherwise dispose of this Contract or any rights created hereunder to any person, firm, partnership, company, corporation or other entity without the prior written consent of the Attorney General and the Contract Officer. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered.

11. Dissemination of Information. During the term of this Contract, the Contractor shall:

A. Not (and shall not permit its agents or employees to) release, disseminate, publish, distribute or circulate, in any manner whatsoever, any information, data, documents or materials related to the services or performance of the services under the Contract or to the Contract, nor publish any final reports or documents, without the prior written consent of the Contract Officer; and

B. Indemnify and hold harmless the OAG, the Attorney General, the System, the ORP, the Employing Institutions, the DBM, the MTA, the MSRP, the State, and their respective officers, agents and employees, from all liability which may be incurred by reason of the release, dissemination, publication, distribution or circulation, in any manner whatsoever including electronic transmission, of any information, data, document, or materials pertaining in any way to the Contract by the Contractor, its agents or employees. The products of the efforts of the Contractor shall become and remain property of the Attorney General, and the Contractor will, at all times, keep the Contract Officer informed of efforts and progress made in the performance of its duties, or any other such duties as may be assigned.

12. Contingent Fee Prohibition. The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract. For breach or violation of this warranty, the Attorney General shall have the right to deduct from this Contract, such price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

13. Itemization of Expenses and Retention of Records. The Contractor shall maintain, for each individual attorney and para- professional performing services on behalf of the Contractor under this Contract, complete time records pertaining to and documenting the Contract services. A summary of the time records (and any coding symbols necessary to interpret the records) indicating the name of the attorney or para-professional, the services rendered, the hourly rate being charged, and the amount of time spent by each such individual performing such work shall be furnished to the Managing OAG Attorney requesting the services on a monthly basis during the term of this Contract. The Contractor and subcontractors shall retain and maintain all records and documents relating to this Contract for a period of five (5) years after final payment hereunder or any applicable statute of limitations or federal retention requirements, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Contract Officer or designees, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 13 shall survive expiration or termination of the Contract.

14. Mandatory Financial Disclosure. The Contractor shall comply with Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State or its agencies and receives in the aggregate \$100,000 or more during a calendar year shall, within thirty days of the time when the \$100,000 amount is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

15. Professional Liability and Insurance. The Contractor shall maintain in full force and effect during the term of this Contract professional liability insurance in an aggregate amount of not less than five million dollars (\$5,000,000), which liability insurance shall include coverage for practice in the fields of law related to the Contract. The Contractor agrees that thereafter it shall maintain for the entire period in which it and each of the attorneys on the Legal Team (subject to any applicable statute of limitations) may incur professional liability in connection with the performance or failure to perform services under this Contract, professional liability insurance in the aggregate amount of not less than five million dollars (\$5,000,000), which liability shall include coverage for practice in the fields of law related to the Contract. However, if the Contractor is a joint venture, and provided that one venturing entity maintains the required insurance policy, the requirement of the Contractor to maintain insurance shall be satisfied if both joint venturers submit evidence to the Contract Officer (for prior written approval in the Contract Officer's sole

discretion) that all members of the joint venture will have such coverage either through actual insurance policies or the equivalent.

16. Conflicts.

A. To avoid potential conflicts of interest which may arise from Contractor's representation, Contractor agrees to examine its client/matter listings carefully on a periodic basis, to notify the Contract Officer immediately of any potential conflict of interest and, if requested, to undertake immediate action to eliminate the source of the potential conflict of interest.

B. The Contractor shall not permit the occurrence or continuance of a violation of Section 5-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "Maryland Public Ethics Law") in connection with this Contract.

C. The OAG reserves the right to make the Contractor aware of situations in which it believes the Contractor is involved which may present a conflict of interest and to request that the Contractor promptly remedy the situation to the satisfaction of the Attorney General or his designee.

D. By executing this Contract, the Contractor hereby acknowledges and agrees that, upon request of the Contract Officer and the Attorney General (or their respective designees), the Contractor, to the extent permitted by the Lawyers' Rules of Professional Conduct, will withdraw from representation of parties whose interests are adverse to the interests of the OAG, the System (if and when services have been requested for the System), the ORP (if and when services have been requested for the ORP), the DBM (if and when services have been requested for the DBM), the MTA (if and when services have been requested for the MTA), an Employing Institution (if and when services have been requested for that Employing Institution), or the MSRP (if and when services have been requested for the MSRP). The Contractor hereby further acknowledges and agrees that the Attorney General reserves the right, in his sole discretion, to select another contractor or law firm to represent the OAG in a particular matter if the conflict of interest is not resolved to the satisfaction of the Attorney General or his designee.

17. Compliance with Law. The Contractor hereby represents and warrants that:

A. It is qualified to do business in the State and that it will take such action as from time to time may be necessary to remain so qualified.

B. It is not in arrears with respect to the payment of any moneys due and owing the State, or any department or unit thereof, including, but not limited to, the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract.

C. It shall comply with all federal, State and local laws, ordinances, rules, and regulations applicable to its activities and obligations under this Contract.

D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

18. Non-Hiring of Employees. No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

19. Termination of Contract for Default. If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provisions of this Contract, the Attorney General may terminate this Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished services provided by the Contractor, shall, at the Attorney General's option, become the property of the Attorney General provided the Contractor has been paid the sums, if any, due to the Contractor pursuant to this Section 19. The Contractor shall be paid (a) fair and equitable compensation (based upon the rates of compensation described in Section 3 hereof) for satisfactory performance prior to receipt of notice of termination, and (b) all expenses reimbursable under this Contract incurred by the Contractor prior to receipt of such notice, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the Attorney General or the System can affirmatively collect damages.

20. Termination of Contract for Convenience. The performance of work under this Contract may be terminated by the Attorney General in accordance with this clause in whole, or from time to time in part, whenever the Attorney General shall determine that such termination is in the best interest of the Attorney General, the System, or the State. The Contractor shall be paid (a) compensation for services satisfactorily performed prior to the date of termination based upon the rates set forth in Section 3 hereof, and (b) all reasonable expenses incurred by the Contractor prior to such date of termination. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

21. Indemnification.

A. The Contractor shall indemnify, hold harmless and, upon request, defend, the Attorney General, the System, the ORP, the DBM, the MTA, the Employing Institutions, the MSRP, the State, and their respective trustees, officers, members, agents and employees (the "Indemnitees") from and against all claims, suits, judgments, expenses, actions, damages, and costs (including reasonable attorney's fees) of every name and description, arising out of or resulting from the performance of or failure to perform the services of the Contractor under this Contract or a breach of any or all of the Contractor's obligations under this Contract.

B. The Indemnitees have no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

C. The Indemnitees have no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

D. The Indemnitees shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this Contract.

E. The Contractor shall immediately notify the Contract Officer of any claim or suit made or filed against the Contractor or its subcontractors resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the Indemnitees in the defense or investigation of any claim, suit, or action made or filed against the Attorney General, the System, the DBM, the MTA, the Employing Institutions or the State as a result of or relating to the Contractor's performance under this Contract.

F. This Section 21 shall survive expiration or termination of the Contract.

22. Correction of Errors, Defects and Omissions. The Contractor, upon request, agrees to perform work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to the System, the DBM, the MTA, the Employing Institutions, or the Attorney General. The acceptance of the work set forth herein by the Contract Officer or designees, or the System shall not relieve the Contractor of the responsibility of subsequent correction of such errors.

23. Anti-Bribery. Contractors are required to be aware of the State Finance and Procurement Article, §§ 16-201 et seq. of the Annotated Code of Maryland, which require that any person convicted of bribery, attempted bribery, or conspiracy to bribe based upon acts committed after July 1, 1977, in the obtaining of a contract from the State of Maryland or any of its subdivisions be subject to disqualification from entering into a contract with the State of Maryland, or any county or other subdivision of the State of Maryland for the supply of materials, equipment, or services by the person.

24. Political Contribution Disclosure. The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

25. Termination of Multi-Year Contract. If funds are not appropriated or if funds are not otherwise made available for the continued performance of this Contract at any time during the Contract term, this Contract shall be canceled as of the time for which funds were not

appropriated or otherwise made available; however, this will not affect the Attorney General's rights under any other termination clause of this Contract. The effect of termination of this Contract pursuant to this Section will be to discharge the Contractor, the Attorney General, and the System from future performance of this Contract, but not from their obligations existing at the time of termination. The Contractor shall be paid (a) compensation for services satisfactorily performed prior to the date of termination based upon the rates set forth in Section 3 hereof, and (b) all reasonable expenses incurred by the Contractor prior to such date of termination. The Attorney General shall notify the Contractor within thirty days prior to the termination of this Contract pursuant to this Section.

26. Ownership of Documents and Materials.

A. The Contractor agrees that all documents and materials (in any formats or media whatsoever) in the Contractor's possession or control, including but not limited to all bond documents, loan documents, program documents, official statements, certificates, and other documents related thereto, and drafts of and forms for such documents, prepared by or for the Contractor under the terms of this Contract (collectively, the "Files") shall at any time during the performance of the services be made available to the Attorney General upon request by the Attorney General or the Contract Officer or designees and shall become and remain the property of the Attorney General upon expiration of this Contract or completion of the services from time to time. The Attorney General shall have the right to use the Files without restriction or limitation and without compensation to the Contractor other than that provided in this Contract.

B. Immediately upon termination or expiration of this Contract, upon request, the Contractor shall deliver the Files to the Contract Officer or designees or to a location within the State designated by the Contract Officer or designees. The Contractor shall have the right to retain copies of those portions of the Files which the Contractor reasonably requires for professional liability purposes.

27. Procurement Regulations. This Contract is not subject to the provisions of Division II of the State Finance and Procurement Article of the Annotated Code of Maryland or State procurement regulations as set forth in COMAR Title 21 (collectively the "Procurement Law"). Nonetheless, the requirements of the Procurement Law will be applied to this Contract to the extent practicable and consistent with obtaining the best legal counsel for the State, all as determined in the Contract Officer's sole discretion. The dispute resolution and appeal procedures contained in the Procurement Law will not apply to this Contract.

28. No Assurance of Work. The Contractor acknowledges that it has received no assurances of any minimum amount or type of work or any minimum amount of compensation under this Contract. The Contractor further acknowledges that the Attorney General may award additional contracts for counsel to the System. The applicable Managing OAG Attorney shall have the sole discretion to determine whether the Contractor shall be assigned to handle a particular matter.

29. Contract Affidavit. Attached to this Contract as Attachment C is the Contract Affidavit which has been completed and signed on behalf of the Contractor and which contains

certifications of the Contractor with regard to corporation registration, tax payment and other matters.

30. Notices. Service of any notice under this Contract shall be complete upon receipt of such notice, mailed through the United States mail, postage prepaid, or hand delivered to the Contract Officer, if such notice is to the Attorney General, at Office of the Attorney General, Maryland State Retirement Agency, 120 East Baltimore Street, Baltimore, Maryland 21202; or to the person executing this Contract on behalf of the Contractor, if such notice is given to the Contractor, at _____

31. Cost and Price Certification. The Contractor has submitted cost or price information and certifies that, to the best of its knowledge, the information submitted is accurate, complete and current as of the Commencement Date. The prices under this Contract or any Contract modification, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the Commencement Date, was inaccurate, incomplete or not current.

32. Waiver. The waiver by either party hereto of a breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach by either party.

33. Suspension of Work. The Contract Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the Contract Officer may determine to be appropriate for the convenience of the State.

34. Effective Date. This Contract shall take effect upon approval and execution by the Attorney General, provided it has first been duly executed by the Contractor.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

WITNESS the following signatures and seals:

WITNESS:

CONTRACTOR:

_____ By: _____

(Typed Name)

(Typed Title)

(Date)

(Taxpayer Identification Number)

WITNESS:

**THE ATTORNEY GENERAL OF THE
STATE OF MARYLAND**

_____ By: _____

(Date)

Approved for form and legal sufficiency
for the State of Maryland this ____ day
of _____, 2019:

Assistant Attorney General

(Date)

ATTACHMENT F
CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I hereby affirm that I, _____ (name of affiant) am the
_____ (title) and duly authorized representative of
_____ (name of business entity) and that I possess the legal authority
to make this affidavit on behalf of the business for which I am acting.

**B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE
DEPARTMENT OF ASSESSMENTS AND TAXATION**

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — ☐ domestic or ☐ foreign;
- (2) Limited Liability Company — ☐ domestic or ☐ foreign;
- (3) Partnership — ☐ domestic or ☐ foreign;
- (4) Statutory Trust — ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID Number: _____
Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____
Address: _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 201____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____
(printed name of Authorized Representative and Affiant)

(signature of Authorized Representative and Affiant)